

31. RECOGNITION [See also 22.41, 72.21 and 73.122.]

“Section **59-1602(6)** of the Montana Collective Bargaining for Public Employees Act ... defines an exclusive representative as: ‘a labor organization which has been designated by the Board as the exclusive representative of employees in an appropriate unit or has been so recognized by the public employer.’ (Emphasis added.)” **UM #2-75**

31.24: Request Filed with Employer – Proof of Majority Status

See **ULP #20-78**.

31.25: Request Filed with Employer – Unit Description

See **ULP #19-78**.

31.3: Employer Response

“For over 20 years, Defendant Department [of Highways] recognized various labor organizations as representatives of some of its maintenance employees for purposes of collective bargaining.” **DC #5-75 District Court (1979)**

31.46: Petition or Request Filed with Board of Personnel Appeals – Appropriate Unit [See also 33.21.]

Counter-petition by employer called for combining three petitions submitted by union into one since all city employees were under standard classification and pay plan, and all were under the supervision of a single supervisor. The union offered no objection, and it was so ordered. **UD #37-74**

Comparison of police department with local fire department and other cities’ police departments is rejected because of too many variables. Job titles and classifications are not factors in the inclusion or exclusion in a bargaining unit because they are too easily made the tools of management. **UD #36-75**

Size alone is an important consideration since actual titles may be the same as in other cities, but duties may vary. **UD #36-75**

“Public employers have the right to recognize labor organizations for units of employees. Certification by Intervenor Board is not necessary, nor is a determination by that Board of “an appropriate unit” required under the Public Employees Collective Bargaining Act.” **DC #5-75 District Court (1979)**

“It is imperative to recognize that this is a decertification proceeding, not a new unit determination.... It is not the hearing examiner’s prerogative to apply new unit determination criteria in this matter Rather, it is her task to determine

voter eligibility based on what the composition of the unit was on the date the petition was filed, as required by rule **24.26.644(2) ARM.**" **DC #8-81**

"It is this Board's practice to defer to parties' labor contracts and well established law that parties may negotiate the composition of their bargaining unit." **UC #5-83**

See also **DC #8-81 District Court (1982)** and **ULP #26-79.**

31.5: Bars to Recognition [See also 32.14 and 35.6.]

"The defendant is prohibited from bargaining with the complainant if the complainant does not enjoy majority status. The record clearly shows that the complainant does not enjoy majority status and therefore, the current Unfair Labor Practice charge is without merit." **ULP #10-90.**